

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**ROBERT GRAY and MARKUM
GEORGE**, individually and on behalf of a
class similarly situated individuals,

Plaintiffs,

v.

**BMW OF NORTH AMERICA, LLC and
BMW AKTIENGESELLSCHAFT,**

Defendants.

Civ. No. 12-3417 (WJM)

ORDER

THIS MATTER comes before the Court on the Defendant BMW North America LLC's motion to dismiss the Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), or in the alternative, to strike the class allegations. For the reasons set forth in the accompanying opinion;

IT IS on this 28th day of May 2014, hereby,

ORDERED that Plaintiff's motion to dismiss is **GRANTED IN PART**.

The following counts of the Complaint **only** are hereby dismissed:

Count 1: Violation of the New Jersey Consumer Fraud Act

Count 3: Breach of the Duty of Good Faith and Fair Dealing

Count 4: Unjust Enrichment

Count 7: Violation of California's Song-Beverly Act; and it is further

ORDERED that the request to strike the class allegations is hereby
DENIED.

/s/ William J. Martini

WILLIAM J. MARTINI, U.S.D.J.